

WITNESS NAME:	Gary Boggs
DEPOSITION DATE:	1/17/2019

AFFIRMATIVE DEPOSITION DESIGNATIONS						COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation						REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation													
Page/Line Begin		Page/Line End		Objections		Replies to Objections		Page/Line Begin		Page/Line End		Objections		Objection Notes		Replies to Objections		Page/Line Begin		Page/Line End		Objections		Replies to Objections	
17	1	17	4				n/a		42	14	42	22	Improper Completeness Designation; Answer is Non-Responsive to Question Asked			Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.		95	14	95	22			Completeness to Defendants' Completeness Designation.	
18	8	18	22				n/a		43	1	43	8	Improper Completeness Designation; Answer is Non-Responsive to Question Asked			Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.		144	24	145	4	Relevance - geographic scope; vague; calls for speculation	This Reply is meant to complete <i>Defendants'</i> Completeness Designation at 144:2-23. However, the Lack of relevance/geographic scope is not applicable. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue provides state of mind and knowledge of McKesson leadership regarding exorbitant amounts of opioids being provided to diversion epicenters (e.g., McKesson's over-distribution of opioids and systemic policy/procedure problems allowing for same). McKesson's policies and procedures relative to the distribution of opioids/controlled substances (and systemic problems with those policies/procedures) are national in scope, and apply to Cabell/Huntington. The discussion concerning these pill mills also makes clear that the pills dispensed by these pill mills made their way into communities throughout the east coast and Midwest, which would obviously include Huntington and Cabell County.  The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue, and the witness is not being asked to form a theory or conjecture without firm evidence. Rather, the witness is confirming whether the question by the examiner is accurate as to the exhibit he held in hand. This confirmatory question of knowledge based on material authored by the witness, upon a question of "true?," was answered clearly and articulately that "yes, that was the purpose of the slide [knowledge, for the pill mill]." Also, the concern for the clarity of the wording has been demonstrably avoided by the witness' clear response.		
19	3	20	2				n/a		69	16	69	18	Improper Completeness Designation; No objection to treatment as counter-designation			Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.		145	6	145	7	Relevance - geographic scope; vague; calls for speculation	Same as above.		
20	4	22	18				n/a		69	22	70	11	Improper Completeness Designation; No objection to treatment as counter-designation			Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.		361	2	361	5	Calls for speculation	This Reply is meant to complete Defendants' Counter Designations at 361:6-11, 361:14-362:2. Further, objection to speculation by Defendants to Defendants' own question is not supported. First, clarity could have been achieved by the examiner at the time through a rephrasing of the question had it been necessary. Second, the concern for the clarity of the wording has been demonstrably avoided by the witness' clear response that, "[those numbers] could be a combination of both [overprescribing or diversion]."		
25	1	26	15				n/a		70	14	70	22	Improper Completeness Designation; No objection to treatment as counter-designation			Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.		387	23	389	1		n/a		

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34	19	35	4	Calls for speculation; expert opinion	The elicited testimony is neither speculative is nor is it an expert opinion. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. Moreover, the witness has 35+ years working with the DEA and controlled substance regulation oversight at McKesson. See Attachment A. As a witness with extensive knowledge and experience regarding controlled substances generally, and opioids specifically, Mr. Boggs had the requisite knowledge to answer the question. In fact, McKesson retained Mr. Boggs as a consultant in order to convey his knowledge about the epidemic and its causes to the members of the company's regulatory department given his experience on this subject. See P-16210. Also, even if considered an opinion, the testimony is admissible under FRE 701.				71	2	71	5	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.	389	5	389	13	Hearsay; calls for speculation	This is not inadmissible hearsay pursuant to FRE 801(d)(2), 803(5) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the Exhibit 38 also proves notice, knowledge, understanding and/or acceptance of the opioid epidemic, opioid abuse and/or diversion). This is also not hearsay because Mr. Boggs is testifying specifically as to his own personal experience and knowledge. The information at issue provides background regarding same (e.g., McKesson's over-distribution of opioids and systemic policy/procedure failures allowing for same). Specifically, the witness expressly - not speculatively - did not disagree with the fact "that McKesson had failed to maintain effective controls against diversion of particular controlled substances and failed to design and operate a system to disclose to the registrant suspicious orders of controlled substances."				
35	6	35	7	Calls for speculation; expert opinion	Same as above.				71	8	71	19	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.	389	15	390	2	Hearsay; calls for speculation	Same as above. Specifically, the witness expressly - not speculatively - states that "a regional director of Regulatory Affairs ... [telling] the DEA that he does not know what a suspicious order was ... would cause [the witness] concern."				
39	24	40	4		n/a				71	21	71	23	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.	392	15	393	5	Hearsay	Same as above.				
40	6	40	12		n/a				94	17	94	19	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.	393	7	393	11		n/a				
40	14	40	15		n/a				95	1	95	8	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.	393	13	393	24	Hearsay; relevance - geographic scope	This is not inadmissible hearsay pursuant to FRE 801(d)(2), 803(5) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as Exhibit 38 also proves notice, knowledge, understanding and/or acceptance of the opioid epidemic, opioid abuse and/or diversion). This is also not hearsay because Mr. Boggs is testifying specifically as to his own personal experience and knowledge. The information at issue provides background regarding same (e.g., McKesson's over-distribution of opioids and systemic policy/procedure failures allowing for same). Specifically, the examiner is extracting definitive testimony from the witness on his personal opinions of facts already in evidience.  The lack of relevance/geographic scope is not applicable. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. Nevertheless, the Washington Court House distribution directly supplied the City of Huntington and Cabell County with controlled substances, so there is no support for a lack of nexus between the testimony subject and geographic area at bar. Additionally, the information at issue provides state of mind and knowledge of McKesson SOMS failures (e.g., McKesson's over-distribution of opioids and systemic policy/procedure problems allowing for same). McKesson's policies and procedures relative to the distribution of opioids/controlled substances (and systemic problems with those policies/procedures) are national in scope, and apply to Cabell/Huntington.				

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87	5	87	8	Misstates prior testimony; assumes facts not in evidence; calls for a legal conclusion	Misstating prior testimony and assuming facts are not applicable. The question is not an assertion that something occurred. Rather, the question asks whether or not something took place during the witness's time at McKesson. This is not a legal conclusion because the testimony involves factual information regarding the witness's notice, knowledge, understanding and/or acceptance of applicable regulations. Mr. Boggs had many years of experience with the DEA handling the implementation of the regulatory aspect of the Controlled Substances Act ("CSA") and overseeing compliance by distributors regarding same. See Attachment A.. Also, for the entire 5+ years Mr. Boggs has worked at McKesson, his responsibilities included ensuring that McKesson complied with the applicable distribution/controlled substance regulations and industry standards. See dep. at 19:21-20:5. As a witness with extensive knowledge and experience regarding these matters, Mr. Boggs had the requisite knowledge to answer the question. Thus, even if considered an opinion/conclusion, the testimony is admissible under FRE 701.	95	11	95	12	Improper Completeness Designation; Answer is Non-Responsive to Question Asked		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.	394	2	394	14	Hearsay; relevance - geographic scope	Same as above.			
87	10	88	18		n/a	95	24	96	2	Improper Completeness Designation; Answer is Non-Responsive to Question Asked		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.	394	16	394	17	Hearsay; relevance - geographic scope	Same as above.			
127	18	128	3	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. This designation is foundational and not objectionable.	96	4	96	21	Improper Completeness Designation; Answer is Non-Responsive to Question Asked		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.	395	3	395	8	Calls for speculation	The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue, and the witness is not being asked to form a theory or conjecture without a history developing material personal knowledge in the subject matter. The witness has 35+ years working with the DEA and controlled substance regulation oversight at McKesson. See Attachment A. As a witness with extensive knowledge and experience regarding controlled substances generally, and opioids specifically, Mr. Boggs had the requisite knowledge to answer the question. In fact, McKesson retained Mr. Boggs as a consultant in order to convey his knowledge about the epidemic and its causes to the members of the company's regulatory department given his experience on this subject. See P-16210.			
128	16	129	3	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. This designation is foundational and not objectionable. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	97	14	97	17	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.	395	11	395	12	Calls for speculation	Same as above.			
129	24	130	20	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. This designation is foundational and not objectionable. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	97	20	98	2	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.	396	11	396	16		n/a			
131	5	131	15	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. This designation is foundational and not objectionable. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	135	6	135	8		Conditional designation can be dropped if McKesson' objections to plaintiffs' questions on this same page are upheld.		396	19	396	19		n/a			

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133	9	133	14	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	143	21	143	24	Improper Completeness Designation; Answer is Non-Responsive to Question Asked	Conditional designation can be dropped if McKesson' objections to plaintiffs' questions on this same page are upheld.	Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.	396	21	397	2	Calls for speculation	The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue, and the witness is not being asked to form a theory or conjecture without firm evidence and a history developing material personal knowledge in the subject matter. Rather, the witness is confirming whether the question by the examiner is accurate as to the exhibit he held in hand. Moreover, the witness has 35+ years working with the DEA and controlled substance regulation oversight at McKesson. See Attachment A. As a witness with extensive knowledge and experience regarding controlled substances generally, and opioids specifically, Mr. Boggs had the requisite knowledge to answer the question. In fact, McKesson retained Mr. Boggs as a consultant in order to convey his knowledge about the epidemic and its causes to the members of the company's regulatory department given his experience on this subject. See P-16210.
134	5	134	9	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	144	2	144	23	Improper Completeness Designation; Answer is Non-Responsive to Question Asked (144:2-8)	Conditional designation can be dropped if McKesson' objections to plaintiffs' questions on this same page are upheld.	Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.	397	4	397	9	Calls for speculation	Same as above.
134	22	134	24	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	145	14	145	17		Conditional designation can be dropped if McKesson' objections to plaintiffs' questions on this same page are upheld.		404	1	404	4		n/a
135	2	135	5	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	145	19	146	3		Conditional designation can be dropped if McKesson' objections to plaintiffs' questions on this same page are upheld.		404	15	404	18	Hearsay; calls for speculation	
136	2	136	13	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony seeks to ascertain why Mr. Boggs used the image in his presentation. Such testimony lessens any likelihood of prejudice arising from the underlying document.	147	17	147	20				404	21	404	22	Hearsay; calls for speculation	<p>This is not inadmissible hearsay pursuant to FRE 801(d)(2), 803(5) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibits also prove notice, knowledge, understanding and/or acceptance of the opioid epidemic, opioid abuse and/or diversion). This is also not hearsay because Mr. Boggs is testifying specifically as to his own personal opinion and reasonable interpretation of the exhibits. Specifically, the examiner is extracting definitive testimony from the witness on his personal opinions of facts already in evidence.</p> <p>The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue, and the witness is not being asked to form a theory or conjecture without firm evidence and a history developing material personal knowledge in the subject matter. Rather, the witness is confirming whether the question by the examiner is accurate as to the exhibits he held in hand. Moreover, the witness has 35+ years working with the DEA and controlled substance regulation oversight at McKesson. See Attachment A. As a witness with extensive knowledge and experience regarding controlled substances generally, and opioids specifically, Mr. Boggs had the requisite knowledge to answer the question. In fact, McKesson retained Mr. Boggs as a consultant in order to convey his knowledge about the epidemic and its causes to the members of the company's regulatory department given his experience on this subject. See P-16210.</p>

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136	17	137	13	Hearsay (137:5-13); relevance - geographic scope (137:5-13). Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	This is not inadmissible hearsay pursuant to FRE 801(d)(2), 803(5) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit also proves notice, knowledge, understanding and/or acceptance of the opioid epidemic, opioid abuse and/or diversion). Lack of relevance/geographic scope is not applicable. This is also not hearsay because Mr. Boggs is testifying specifically as to his own personal experience and knowledge. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue provides background regarding same (e.g., McKesson's over-distribution of opioids and systemic policy/procedure problems allowing for same). McKesson's policies and procedures relative to the distribution of opioids/controlled substances (and systemic problems with those policies/procedures) are national in scope, and apply to Cabell/Huntington. The discussion concerning these pill mills also makes clear that the pills dispensed by these pill mills made their way into communities throughout the east coast and Midwest, which would obviously include Huntington and Cabell County.  Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony seeks to ascertain why Mr. Boggs used the image in his presentation. Such testimony lessens any likelihood of prejudice arising from the underlying document.	179	11	180	10	Improper Completeness Designation; Answer is Non-Responsive to Question Asked except for "I don't agree with that" at 180:10		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.	404	24	405	4	Hearsay; calls for speculation	Same as above.
139	7	139	20	Hearsay. Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	This is not inadmissible hearsay pursuant to FRE 801(d)(2), 803(5), FRE 803(6), 803(8) and/or 803(18). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the exhibit also proves notice, knowledge, understanding and/or acceptance of the opioid epidemic, opioid abuse, diversion, and/or the consequences of same).  Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony seeks to ascertain why Mr. Boggs used the image in his presentation. Such testimony lessens any likelihood of prejudice arising from the underlying document.	202	12	203	13	Answer at 203:3-8 is Non-Responsive to Question Asked		Answer is responsive to question asked.	405	7	405	12	Hearsay; calls for speculation	Same as above.
141	5	141	22	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	204	18	204	19	Subsequent Answer is Non-Responsive to Question Asked		Answer is responsive to question asked.	405	14	405	22	Hearsay; calls for speculation	Same as above.
141	24	142	7	Relevance - geographic scope. Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Lack of relevance/geographic scope is not applicable. This Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297 at 10. The information at issue provides background regarding same (e.g., McKesson's over-distribution of opioids and systemic policy/procedure problems allowing for same). McKesson's policies and procedures relative to the distribution of opioids/controlled substances (and systemic problems with those policies/procedures) are national in scope, and apply to Cabell/Huntington. Moreover, the discussion concerning these pill mills also makes clear that the pills dispensed by these pill mills made their way into communities throughout the east coast and Midwest, which would obviously include Huntington and Cabell County.  Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	204	23	205	5	Answer is Non-Responsive to Question Asked		Answer is responsive to question asked.	407	2	407	10	Calls for speculation	The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue, and the witness is not being asked to form a theory or conjecture without firm evidence and a history developing material personal knowledge in the subject matter. Rather, the witness is confirming whether the question by the examiner is accurate. Moreover, McKesson retained Mr. Boggs as a consultant in order to convey his knowledge about the epidemic and its causes to the members of the company's regulatory department given his experience on this subject. See P-16210. As such, his explicit "hope" - not speculation - that any letters from the DEA received by McKesson related to direction regarding suspicious order reports would be made known to him, as well as his belief that no such letters existed, are supported by his 35+ years working with the DEA and controlled substance regulation oversight at McKesson. See Attachment A. As a witness with extensive knowledge and experience regarding controlled substances generally, and opioids specifically, Mr. Boggs had the requisite McKesson position and personal knowledge to answer the question.



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142	9	142	22	Relevance - geographic scope. Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.			205	10	205	16	Answer at 205:10-11 is Non-Responsive to Question Asked		407	14	407	15	Calls for speculation	Same as above.
145	9	145	13	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.			205	20	205	22	Incomplete Designation (no question and answer designated)							
146	5	146	9	Relevance - geographic scope. Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.			208	5	208	6								
146	14	146	21	Relevance - geographic scope (146:14-15); assumes facts not in evidence; misstates testimony; calls for a legal conclusion. Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.			208	8	208	12								
146	23	147	16	Assumes facts not in evidence; misstates testimony; calls for a legal conclusion. Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.			211	3	212	7	Improper Completeness Designation							
147	21	148	1	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.			212	9	212	11	Improper Completeness Designation							
148	3	148	10	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.			225	4	225	7	Improper Completeness Designation; No objection to treatment as counter-designation							

WITNESS NAME: Gary Boggs																									
DEPOSITION DATE: 1/17/2019																									
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Page/Line Begin		Page/Line End		Objections		Replies to Objections		Page/Line Begin		Page/Line End		Objections		Objection Notes		Replies to Objections		Page/Line Begin		Page/Line End		Objections		Replies to Objections	
148	12	148	23	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation.	263	13	263	19	Answer is Non-Responsive to Question Asked		Answer is responsive to question asked.													
149	1	149	5	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation. The testimony concerns McKesson's own systems.	264	2	264	4	Answer is Non-Responsive to Question Asked		Answer is responsive to question asked.													
149	7	149	12	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation. The testimony concerns McKesson's own systems.	270	3	270	5	Answer is Non-Responsive to Question Asked		Answer is responsive to question asked.													
149	14	150	5	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation. The testimony concerns McKesson's own systems.	270	16	270	18																
150	7	150	11	Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation. The testimony concerns McKesson's own systems.	278	12	278	15	Improper Completeness Designation; no objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.													
150	13	150	21	Assumes facts not in evidence (150:18-21). Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	The question assumed no facts, but rather asked the witness about the feasibility of timing for implementing effective controls against diversion (e.g., setting threshold limits for customers' orders of opioids/controlled substances), which has been a requirement of the CSA for decades.  Mr. Boggs is the author of this presentation. Testimony regarding the presentation, especially from him, is uniquely relevant to understanding both Mr. Boggs' understanding of the scope and importance of the opioid epidemic and the message he sought to convey to McKesson. The court's prior rulings do not render this testimony inadmissible; indeed the Court permitted questioning regarding portions of the presentation. The excerpted testimony does not describe an inflammatory or otherwise prejudicial portion of the presentation. The testimony concerns McKesson's own systems.	278	17	278	19	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.													
150	23	151	1	Assumes facts not in evidence. Exhibit ruled inadmissible by the Court. See Trial Tr., May 24, 2021, at 76:22-77:3, 77:15-78:3. Questioning on excluded exhibit should be similarly inadmissible.	Same as above.	278	21	278	22																
196	21	197	11		n/a	281	3	281	7	Improper Completeness Designation; Answer is Non-Responsive to Question Asked		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106. Answer is responsive to question asked.													

WITNESS NAME: Gary Boggs																			
DEPOSITION DATE: 1/17/2019																			
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Page/Line Begin		Page/Line End		Objections	Replies to Objections	Page/Line Begin		Page/Line End		Objections	Objection Notes	Replies to Objections	Page/Line Begin		Page/Line End		Objections	Replies to Objections	
197	14	198	4		n/a	293	3	293	7	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.							
198	7	198	10		n/a	293	10	293	12	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.							
201	17	202	6		n/a	293	17	293	23	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.							
202	9	202	10		n/a	353	3	355	9	Leading at 355:6-8		Question is non-leading.							
203	14	204	14		n/a	355	11	355	11	Response to Improper Leading Question		Question is non-leading.							
204	16	204	16		n/a	355	19	355	22	Improper Lay Opinion		Witness is testifying as to his lay understanding that is rationally based on his perception. See Fed. R. Evid. 701.							
205	6	205	8	Calls for speculation	Speculation is not applicable. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. The witness has decades of experience working with the DEA to prevent diversion and overseeing conduct of distributors relative to compliance/non-compliance with the CSA. See Attachment A. As such, he has the requisite knowledge and experience to testify about the feasibility for a distributor to have a program (or particular aspect of a program) in place to prevent diversion and/or to ensure compliance with the CSA, including when such programs/aspects were available/possible. The witness's ability to testify about these matters is confirmed by how he could specify which aspects were not available/feasible at certain points in time. See e.g. , dep. at 208:5-12. Additionally, the witness's ability to testify about these matters relative to McKesson (and similar companies) is further enhanced by his last 5+ years at McKesson overseeing the controlled substance monitoring program and ensuring compliance with the CSA. See Attachment A. Moreover, his work included evaluating McKesson’s prior order monitoring programs to see how improvements could be made. Id . See also , dep. at 172:23-173:3.	356	14	356	22										
205	18	205	18		n/a	357	5	360	23										
205	24	206	10	Calls for speculation	Speculation is not applicable. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. The witness has decades of experience working with the DEA to prevent diversion and overseeing conduct of distributors relative to compliance/non-compliance with the CSA. See Attachment A. As such, he has the requisite knowledge and experience to testify about the feasibility for a distributor to have a program (or particular aspect of a program) in place to prevent diversion and/or to ensure compliance with the CSA, including when such programs/aspects were available/possible. The witness's ability to testify about these matters is confirmed by how he could specify which aspects were not available/feasible at certain points in time. See e.g. , dep. at 208:5-12. Further, the witness's ability to testify about these matters relative to McKesson (and similar companies) is further enhanced by his last 5+ years at McKesson overseeing the controlled substance monitoring program and ensuring compliance with the CSA. See Attachment A. Moreover, his work included evaluating McKesson’s prior order monitoring programs to see how improvements could be made. Id . See also , dep. at 172:23-173:3.	361	6	361	11	Improper Lay Opinion		Witness is testifying as to his lay understanding that is rationally based on his perception. See Fed. R. Evid. 701.							
206	12	207	2		n/a	361	14	362	2										



WITNESS NAME:	Gary Boggs
DEPOSITION DATE:	1/17/2019

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Page/Line Begin	Page/Line End		Objections	Replies to Objections	Page/Line Begin	Page/Line End		Objections	Objection Notes	Replies to Objections	Page/Line Begin		Page/Line End		Objections	Replies to Objections
207	4	207	8	Calls for speculation (207:7-8)	Speculation is not applicable. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. The witness has decades of experience working with the DEA to prevent diversion and overseeing conduct of distributors relative to compliance/non-compliance with the CSA. See Attachment A. As such, he has the requisite knowledge and experience to testify about the feasibility for a distributor to have a program (or particular aspect of a program) in place to prevent diversion and/or to ensure compliance with the CSA, including when such programs/aspects were available/possible. The witness's ability to testify about these matters is confirmed by how he could specify which aspects were not available/feasible at certain points in time. See e.g. , dep. at 208:5-12. Further, the witness's ability to testify about these matters relative to McKesson (and similar companies) is further enhanced by his last 5+ years at McKesson overseeing the controlled substance monitoring program and ensuring compliance with the CSA. See Attachment A. Moreover, his work included evaluating McKesson’s prior order monitoring programs to see how improvements could be made. Id. See also , dep. at 172:23-173:3.	362	4	362	4							
207	10	208	4	Calls for speculation (207:10)	Same as above.	362	6	362	9							
208	14	208	17		n/a	362	11	365	11							
208	19	209	6		n/a	365	13	369	20	Leading at 368:17-369:3		Question is non-leading, as evidenced by witness's disagreement with the question posed.				
209	9	209	22	Calls for speculation (209:20-22)	Speculation is not applicable. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. The witness has decades of experience working with the DEA to prevent diversion and overseeing conduct of distributors relative to compliance/non-compliance with the CSA. See Attachment A. As such, he has the requisite knowledge and experience to testify about the feasibility for a distributor to have a program (or particular aspect of a program) in place to prevent diversion and/or to ensure compliance with the CSA, including when such programs/aspects were available/possible. The witness's ability to testify about these matters is confirmed by how he could specify which aspects were not available/feasible at certain points in time. See e.g. , dep. at 208:5-12. Further, the witness's ability to testify about these matters relative to McKesson (and similar companies) is further enhanced by his last 5+ years at McKesson overseeing the controlled substance monitoring program and ensuring compliance with the CSA. See Attachment A. Moreover, his work included evaluating McKesson’s prior order monitoring programs to see how improvements could be made. Id. See also , dep. at 172:23-173:3.	375	2	376	4							
210	7	210	16		n/a	377	13	377	18							
210	18	210	22		n/a	377	23	379	15	Improper Lay Opinion at 378:3-9; Improper Character Evidence at 378:17-379:15		Witness is testifying as to his lay understanding that is rationally based on his perception. See Fed. R. Evid. 701.  Plaintiffs' deposition questioning throughout this litigation has put the character of McKesson and its employees at issue. Without waiver of McKesson's objections to this improper questioning, in the event the Court rules such testimony admissible, McKesson is entitled to defend the character of itself and its employees.				
210	24	211	1		n/a	379	17	380	16	Improper Character Evidence at 379:17-21		Plaintiffs' deposition questioning throughout this litigation has put the character of McKesson and its employees at issue. Without waiver of				

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Page/Line Begin		Page/Line End		Objections		Replies to Objections		Page/Line Begin		Page/Line End		Objections		Objection Notes		Replies to Objections		Page/Line Begin		Page/Line End		Objections		Replies to Objections		
212	20	213	10	Calls for speculation (213:9-10)		Speculation is not applicable. The witness has decades of experience working with the DEA to prevent diversion and overseeing conduct of distributors relative to compliance/non-compliance with the CSA. See Attachment A. As such, he has the requisite knowledge and experience to testify about the feasibility for a distributor to have a program (or particular aspect of a program) in place to prevent diversion and/or to ensure compliance with the CSA, including when such programs/aspects were available/possible. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. The witness's ability to testify about these matters is confirmed by how he could specify which aspects were not available/feasible at certain points in time. See e.g. , dep. at 208:5-12. Further, the witness's ability to testify about these matters relative to McKesson (and similar companies) is further enhanced by his last 5+ years at McKesson overseeing the controlled substance monitoring program and ensuring compliance with the CSA. See Attachment A. Moreover, his work included evaluating McKesson’s prior order monitoring programs to see how improvements could be made. Id. See also , dep. at 172:23-173:3.		380	19	381	11															
213	12	213	12	Calls for speculation		Same as above.		381	14	383	4															
213	18	214	5	Compound		Compound is not applicable. The question quoted the language from the specific referenced portion of slide #28 of the witness's/McKesson's PowerPoint presentation at issue. Moreover, the witness was allowed the full opportunity to answer, did clearly answer, and indicated no problem with answering. Also, while Plaintiffs submit that the questioning/testimony is appropriate, any potential compound issue can be properly considered/minimized and weighted accordingly in this Bench trial.		384	22	385	21															
214	7	214	20	Compound (214:7)		Same as above.		394	18	394	21															
214	22	214	23			n/a		394	24	395	2															
215	2	215	18			n/a		410	10	410	13	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.												
215	20	216	2	Calls for speculation		Speculation is not applicable. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. The witness has decades of experience working with the DEA to prevent diversion and overseeing conduct of distributors relative to compliance/non-compliance with the CSA. See Attachment A. As such, he has the requisite knowledge and experience to testify about the feasibility for a distributor to have a program (or particular aspect of a program) in place to prevent diversion and/or to ensure compliance with the CSA, including when such programs/aspects were available/possible. The witness's ability to testify about these matters is confirmed by how he could specify which aspects were not available/feasible at certain points in time. See e.g. , dep. at 208:5-12. Further, the witness's ability to testify about these matters relative to McKesson (and similar companies) is further enhanced by his last 5+ years at McKesson overseeing the controlled substance monitoring program and ensuring compliance with the CSA. See Attachment A. Moreover, his work included evaluating McKesson’s prior order monitoring programs to see how improvements could be made. Id. See also , dep. at 172:23-173:3.		410	15	410	21	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.												
216	4	216	10	Calls for speculation		Same as above.		410	23	411	9	Improper Completeness Designation; No objection to treatment as counter-designation		Fairness dictates that testimony be considered with the portions introduced by Plaintiffs. See Fed. R. Civ. P. 32(a)(6); Fed. R. Evid. 106.												
216	12	216	13	Calls for speculation		Same as above.																				
216	15	216	23			n/a																				

WITNESS NAME: Gary Boggs DEPOSITION DATE: 1/17/2019															
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217	1	217	5	Calls for speculation	Speculation is not applicable. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. The witness has decades of experience working with the DEA to prevent diversion and overseeing conduct of distributors relative to compliance/non-compliance with the CSA. See Attachment A. As such, he has the requisite knowledge and experience to testify about the feasibility for a distributor to have a program (or particular aspect of a program) in place to prevent diversion and/or to ensure compliance with the CSA, including when such programs/aspects were available/possible. The witness's ability to testify about these matters is confirmed by how he could specify which aspects were not available/feasible at certain points in time. See e.g. , dep. at 208:5-12. Further, the witness's ability to testify about these matters relative to McKesson (and similar companies) is further enhanced by his last 5+ years at McKesson overseeing the controlled substance monitoring program and ensuring compliance with the CSA. See Attachment A. Moreover, his work included evaluating McKesson's prior order monitoring programs to see how improvements could be made. Id. See also , dep. at 172:23-173:3.										
217	7	217	14	Calls for speculation	Same as above.										
217	17	217	20		n/a										
223	9	223	12	Assumes facts not in evidence; calls for speculation	Assuming facts and speculation are not applicable. The question is not necessarily an assertion that something occurred and/or does not need to be attributed to specific acts. Rather, the question asks for facts from the witness, namely whether he himself did the review/analysis at issue, or whether he knew if anyone else at McKesson did it. The testimony does not indicate that the witness is guessing or speculating regarding the questioning at issue. In fact, the witness is able to definitively answer the question. Additionally, the witness was not speculating due to his last 5+ years at McKesson overseeing the controlled substance monitoring program and ensuring compliance with the CSA. See Attachment A. Moreover, his work included evaluating McKesson's prior order monitoring programs to see how improvements could be made, so he would/should have known. Id. See also , dep. at 172:23-173:3.										
223	14	223	20	Assumes facts not in evidence; calls for speculation	Same as above.										
223	22	223	23	Assumes facts not in evidence; calls for speculation	Same as above.										
259	7	259	9		n/a										
259	12	259	14		n/a										
259	17	259	20		n/a										
259	23	260	8		n/a										
260	10	260	10		n/a										
260	23	261	8	Hearsay; relevance - geographic scope	The testimony involves the PowerPoint presentation created by the witness (as confirmed at 260:23-261:1). Also, the witness confirmed (at 259:23-260:1 & 261:20-262:1) that he researched/had knowledge about the information he included in his PowerPoint. Moreover, this is not inadmissible hearsay pursuant to FRE 801(d)(2) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the testimony/exhibit also proves notice, knowledge, understanding and/or acceptance of the opioid epidemic, opioid abuse, diversion and/or opioid/prescription pill migration). Geographic scope is not applicable. The witness's testimony and/or the exhibit show how diverted opioids/prescription pills travel from state to state (indicating how geographic scope is not limited). Specifically here, diverted opioids travel from Florida up through Appalachia, which includes Cabell County and the City of Huntington. Also, this Court has already ruled that Defendants' conduct outside of Cabell/Huntington "is generally relevant to Defendants' conduct within the Track [Two] Counties." See ECF 1297, at 10. The information at issue provides background regarding same (e.g., opioid/prescription pill migration, and how over-distribution of opioids and systemic policy/procedure problems allowing for same can impact other geographic areas).										
261	10	261	22	Hearsay; relevance - geographic scope	Same as above.										
262	1	262	1	Hearsay; relevance - geographic scope	Same as above.										

WITNESS NAME: Gary Boggs																		
DEPOSITION DATE: 1/17/2019																		
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Page/Line Begin		Page/Line End		Objections	Replies to Objections	Page/Line Begin		Page/Line End		Objections	Objection Notes	Replies to Objections	Page/Line Begin		Page/Line End		Objections	Replies to Objections
262	4	262	17	Authenticity; foundation; hearsay; calls for speculation	The objections (of authenticity, foundation and speculation) are objections to form which were not made during the deposition, and thus are waived. Also, the foundation is provided/established by the exhibit itself. See dep. exh. 29 at p. 1. This is not hearsay pursuant to FRE 801(d)(2), 803(3) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the testimony/exhibit also proves state of mind, motive and/or mind-set relative to the DEA, as well as notice, knowledge, understanding and/or acceptance of applicable regulations, industry standards, opioid abuse, diversion and/or pill mills). Also, no questions in this designation require the witness to speculate. The questions solely address confirmation/understanding of the contents of the exhibit.													
263	6	263	9	Authenticity; foundation; hearsay; calls for speculation	The authenticity objection was not made relative to the introduction/use of the exhibit during the deposition, and is thus waived. The foundation is provided/established by the exhibit itself. See dep. exh. 29 at p. 1. This is not hearsay pursuant to FRE 801(d)(2), 803(3) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the testimony/exhibit also proves state of mind, motive and/or mind-set relative to the DEA, as well as notice, knowledge, understanding and/or acceptance of applicable regulations, industry standards, opioid abuse, diversion and/or pill mills). Also, no questions in this designation require the witness to speculate. The question solely addresses the witness's actual belief/response.													
263	11	263	11	Authenticity; foundation; hearsay; calls for speculation	Same as above.													
266	13	266	18		n/a													
267	2	267	10		n/a													
267	12	267	13		n/a													
268	8	269	23	Hearsay; foundation	This is not inadmissible hearsay pursuant to FRE 801(d)(2), 803(3) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the testimony/exhibit also proves state of mind, motive and/or mind-set relative to the DEA, as well as notice, knowledge, understanding and/or acceptance of applicable regulations, industry standards, opioid abuse, diversion and/or pill mills). Also, the objection to foundation is an objection to form which was not made during the deposition for many of the questions in this designation, and thus is waived regarding same. Also, the foundation is provided/established by the exhibit itself. See dep. exh. 30 at pp. 1-2. The foundation is further provided/established by the questioning and confirming testimony. See dep. at 268:13-23.													
270	1	270	1	Hearsay; foundation	Same as above.													
270	19	271	5		n/a													
271	20	272	3		n/a													
272	10	272	12		n/a													
277	9	277	10	Hearsay	This is not inadmissible hearsay pursuant to FRE 801(d)(2), 803(3) and/or FRE 803(6). Also, hearsay is not applicable because FRE 801(c)(2) is not satisfied (as the testimony/exhibit also proves state of mind, motive and/or mind-set relative to the DEA, as well as notice, knowledge, understanding and/or acceptance of applicable regulations, and/or industry standards).													
277	12	277	12	Hearsay	Same as above.													
291	7	291	14	Calls for a legal conclusion; assumes facts not in evidence; misstates document	Legal conclusion is not applicable. The testimony involves factual information regarding the witness's notice, knowledge, understanding and/or acceptance of applicable regulations. Mr. Boggs had many years of experience with the DEA handling the implementation of the regulatory aspect of the Controlled Substances Act ("CSA") and overseeing compliance by distributors regarding same. See Attachment A. Also, for the entire 5+ years Mr. Boggs has worked at McKesson, his responsibilities included overseeing the controlled substance monitoring program and ensuring compliance with the CSA. Id. As a witness with vast knowledge and extensive experience regarding these matters, Mr. Boggs had the capability to answer the question. Thus, even if considered an opinion/conclusion, the testimony is admissible under FRE 701. Assuming facts not in evidence and misstating the document are not applicable. The facts are established through the document, which is being introduced along with the designations. See dep. ex. 33. Further, this document has been verified and introduced by Plaintiffs with the designations of HDMA/H.D.A. 30(b)(6) deposition representative (John Kelly). See 5/10/2019 J. Kelly/H.D.A. dep. exh. 9. The questioning tracks the document and does not misstate it. Further, if any potential misstatement can be properly ignored and/or minimized and weighted accordingly in this Bench trial.													
291	16	291	20	Calls for a legal conclusion; assumes facts not in evidence; misstates document	Same as above.													

Page 13 of 14



WITNESS NAME:	Gary Boggs
DEPOSITION DATE:	1/17/2019

AFFIRMATIVE DEPOSITION DESIGNATIONS						COUNTER DESIGNATIONS * <i>Pink</i> = Completeness Designation								REPLY DESIGNATIONS * <i>Pink</i> = Completeness Designation											
Page/Line Begin		Page/Line End		Objections		Replies to Objections		Page/Line Begin		Page/Line End		Objections		Objection Notes		Replies to Objections		Page/Line Begin		Page/Line End		Objections		Replies to Objections	
326	11	326	12	Hearsay; calls for a legal conclusion; assumes facts not in evidence; calls for speculation. Exhibit ruled inadmissible by the Court pursuant to Rule 408 (See Trial Tr., May 24, 2021, at 105:11-13. Questioning on excluded exhibit should be similarly inadmissible.		Same as above.																			